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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/031,162	05/20/2002	Nikolai Grigorievich Lyapko	PAA-102-A	4990

7590

07/13/2005

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EXAMINER

THALER, MICHAEL H

ART UNIT PAPER NUMBER

3731

DATE MAILED: 07/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

5

Office Action Summary

Application No.

10/031,162

Applicant(s)

LYAPKO, NIKOLAI
GRIGORIEVICH

Examiner

Michael Thaler

Art Unit

3731

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 May 0905.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 8-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 8-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 3731

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 8 and 9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 8, lines 6-7, it is unclear if the term "solid...coats" means 1) a coat which covers the entire needle base or 2) that the needle base has not coat, i.e. the needle base is solid uncoated material or 3) the coat is made of solid material that is substantial (as opposed to liquid or gas) or 4) some other meaning. Further, it is unclear if the group of materials for the needle bases and coats are limited to the groups listed in lines 4 and 5 or the groups listed in lines 10-12 or a combination of both groups.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Art Unit: 3731

Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schweisfurth (5,458,561). Schweisfurth discloses base member 26 and needles 28 fixed therein, each of the needles comprising a base with a rod, a sharpened portion and a head (the portion closest to base member 26), the needle bases being provided with a coat of silver (col. 4, line 67 to col. 5, line 3). Schweisfurth fails to disclose the material of the needle bases. However, it is old and well known in this art to form needles of steel, for example, since this material is strong. It would have been obvious to use steel as the material for the Schweisfurth needle bases so that it too would have this advantage. As to claim 9, the Schweisfurth needles, as modified above, are such that adjacent needles comprise different base and coat materials. (That is, each adjacent needle comprises different base and coat materials, i.e., steel and silver.)

Claims 10-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Choi (5,676,684) in view of Gabrusenok (SU 1264942). Choi discloses base member 15 and needles (col. 5, line 14) fixed therein, each of the needles comprising a rod, a sharpened portion and a head (the portion of the needle adjacent to base member 15). Choi fails to disclose the needles as being partially coated with different materials. However, Gabrusenok teaches that acupuncture needles should be partially coated with

Art Unit: 3731

different materials in order to obtain the advantage of creating electrochemical potentials (abstract). It would have been obvious to partially coat the Choi needles with different materials so that it too would have this advantage.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Thaler whose telephone number is (571)272-4704. The examiner can normally be reached Monday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anhtuan T. Nguyen can be reached on (571)272-4963. The fax phone number for the organization where this application or proceeding is assigned is (703)872-9306.

mht
7/7/05



MICHAEL THALER
PRIMARY EXAMINER
ART UNIT 3731